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8 ATTORNEYS FOR PLAINTIFFS

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 MERCY AMBAT, ZAINABU ANDERSON,
12 JOHN ARITA, DENNIS CARTER, SHARON
13 CASTILLO, JOANNA CROTTY, TEQUISHA
14 CURLEY, ALISA DAVIS-ZEHNER, MARLA
15 DENZER, PATTI FLYNN, TERESA FOX, JON
16 GRAY, TORI JACKSON, LISA JANSSEN,
17 MICHAEL JONES, RICHARD LEE, SANDRA
18 MACLIN-GIBSON, SUKHWANT MANN,
19 GLORIA MARTIN, ARTURO MEDRANO,
20 MARC NUTI, KEVIN O'SHEA, ANTHONY
21 PEPPERS, VINCENT QUOCK, WENDY
22 RODGERS-WELLS, LANA SLOCUM, ERNEST
23 SMITH, TONYETTE SMITH-AL GHANI,
24 MATTIE SPIRES-MORGAN, KENNETH TAN,
25 ANJIE VERSHER, BONNIE WESTLIN,
26 YVETTE WILLIAMS, ROLAND ZANIE,
27 MICHAEL ZEHNER, PAMELA WALKER,
28 GWENDOLYN HARVEY-NOTO, FELISHA
THOMAS, JENNIFER KEETON, OLGA
KINCADE, EMIKO THEODORIDIS, JEREMY
DEJESUS, and MARTHA ORTEGA

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO,

Defendant.

Case No. C-07-3622 SI
(Consolidated with Case Numbers
C-08-2406 SI & C-09-2652 SI)

**[proposed] FINAL JUDGMENT ON ALL
CLAIMS AND DEFENSES**

1 Plaintiffs filed their Complaint in this matter (referred to as the Ambat matter) on July 13, 2007,
2 based on nine causes of action, specifically, (1) Gender Discrimination under Title VII (Federal Claim);
3 (2) Gender Discrimination, under the Fair Employment and Housing Act (California Claim); (3)
4 Gender Employment Restriction under Title VII (Federal Claim); (4) Gender Employment Restriction
5 under the Fair Employment and Housing Act (California Claim); (5) Retaliation for Protected Activity
6 under Title VII (Federal Claim); (6) Retaliation for Protected Activity under the Fair Employment and
7 Housing Act (California Claim); (7) Failure To Prevent Violation under the Fair Employment and
8 Housing Act (California Claim); (8) Retaliation under California Labor Code § 1102.5 et seq; (9)
9 Retaliation under Peace Officer Bill of Rights (Govt § 3309.5) The Complaint was filed on behalf of
10 numerous plaintiffs, many of whom dropped out of the action prior to completion of discovery. The
11 action was stayed on October 23, 2007, pending completion of a similar suit in San Francisco Superior
12 Court. That stay was lifted and this matter proceeded on or about June 19, 2008.

12 Thereafter a second matter with similar, if not identical, claims was filed arising out of the same core
13 circumstances, that is the elimination of male deputy sheriff's from working in the female jails.
14 Plaintiffs filed the second action by way of Complaint in the companion matter (referred to as the
15 Walker matter) on May 9, 2008, comprised of the claims of eight (8) plaintiffs. Thereafter on or about
16 October 15, 2008, this court ordered the consolidation of the Walker matter with the Ambat matter.

17 Thereafter a third matter with similar, if not identical, claims was filed arising out of the same core
18 circumstances, that is the elimination of male deputy sheriff's from working in the female jails. Plaintiff
19 Ortega filed the third action by way of Complaint in the companion matter (referred to as the Ortega
20 matter) on June 15, 2009. Thereafter on or about September 21, 2009, this court ordered the
21 consolidation of the Ortega matter with the Ambat matter.

22 Thereafter, on or about October 22, 2009, pursuant to order of the court, plaintiffs in all three cases
23 who remained caused to file with the Court a revised Third Amended Complaint consolidating all of the
24 claims in these three actions. The plaintiffs claims asserted were: (1) Gender Discrimination under
25 Title VII (Federal Claim); (2) Gender Discrimination, under the Fair Employment and Housing Act
26 (California Claim); (3) Gender Employment Restriction under Title VII (Federal Claim); (4) Gender
27 Employment Restriction under the Fair Employment and Housing Act (California Claim); (5)
28 Retaliation for Protected Activity under Title VII (Federal Claim) for Plaintiffs Janssen, Morgan-Spires,
Anderson, Gray, and Versher; (6) Retaliation for Protected Activity under the Fair Employment and
Housing Act (California Claim) for Plaintiffs Janssen, Morgan-Spires, Anderson, Gray, and Versher;

1 (7) Failure To Prevent Violation under the Fair Employment and Housing Act (California Claim); (8)
2 California Labor Code § 1102.5 et seq for Plaintiffs Janssen, Morgan-Spires; (9) Peace Officer Bill of
3 Rights (Govt § 3309.5) for Plaintiff Versher.

4 Thereafter, on October 22, 2009, the Defendant City and County of San Francisco, filed their
5 Answer to the Third Amended Complaint, as revised, asserting numerous affirmative defenses,
6 including that the elimination of males working in the female jails (referred to on occasions as “PODS”)
7 is a Bona Fide Occupational Qualification. (21st Affirmative Defense)

8 On January 8, 2010, Defendant City and County of San Francisco filed its Motion for Summary
9 Judgment and or Adjudication regarding all of plaintiff’s claims. On January 11, 2010, Plaintiff Jon
10 Gray filed his motion for Summary Judgment and or Adjudication. The matter came on for hearing on
11 February 12, 2010.

12 On February 17, 2010, the Court issued an order denying Plaintiff Jon Grays’ summary
13 judgment motions and granting the majority of defendant’s motion for summary judgment. Specifically,
14 the court granted the Defendant City and County of San Francisco’s Motion for Summary Judgment as
15 to all plaintiffs on the claims as follows: (1) Gender Discrimination under Title VII (Federal Claim); (2)
16 Gender Discrimination, under the Fair Employment and Housing Act (California Claim); (3) Gender
17 Employment Restriction under Title VII (Federal Claim); (4) Gender Employment Restriction under the
18 Fair Employment and Housing Act (California Claim); (5) Retaliation for Protected Activity under Title
19 VII (Federal Claim) save and except for claims by Plaintiffs Janssen, Morgan-Spires, and Versher; (6)
20 Retaliation for Protected Activity under the Fair Employment and Housing Act (California Claim) save
21 and except for claims by Plaintiffs Janssen, Morgan-Spires, and Versher; (7) Failure To Prevent
22 Violation under the Fair Employment and Housing Act (California Claim); (8) Retaliation under
23 California Labor Code § 1102.5 et seq save and except for claims by Plaintiffs Janssen, Morgan-Spires;
24 (9) Retaliation under Peace Officer Bill of Rights (Govt § 3309.5) save and except for claims by
25 Plaintiff Versher.

26 On March 15, 2010, the Court issued an order denying in part and granting in part the Defendant
27 City and County of San Francisco’s Motion for Summary Judgment and or Adjudication as to the
28 individual claims of Plaintiff Lisa Janssen, Angie Versher and Matty Morgan-Spires, with claims for
retaliation available to each.

1 Thereafter the matter was set for trial on June 28, 2010. Pursuant to the order of the Court for
2 the parties to attend Settlement Conference, said conference was held on June 9, 2010, and the parties
3 stipulated to resolve the remaining claims by way of stipulated order and judgment as follows:

4 (a) Defendant City will recredit Plaintiff Deputy Spires-Morgan up to 10 days of sick leave
5 to the extent that sick leave was used due to her feelings of retaliation and or harassment arising out of
6 the remaining events that are at issue in this case.

7 (b) Defendant City will recredit Plaintiff Deputy Janssen up to five days of sick leave to the
8 extent that sick leave was used due to her feelings of retaliation and or harassment arising out of the
9 remaining events that are at issue in this case.

10 (c) Plaintiffs Spires-Morgan and Janssen will submit there request to Faye Horn of the
11 Sheriff's Department. If the deputy and the Sheriff's Department can not agree on the amount of sick
12 leave time recredit, the matter will be submitted to this Court. Magistrate Judge Maria Elena James, or
13 in her absence, any other judicial officer, will retain jurisdiction to make any further orders and
14 determination of the claims to recredit such sick leave if the parties can't agree on which days those
15 would be and whether they were, in fact, associated with these particular events. A ruling by the court
16 on what, if any, of those claims for sick leave days would be recredited will be final and binding and
17 would be subject to no further appeal upon ruling by Judge James or other judicial officer. The
18 disagreement shall be presented to the court without further notice, and without necessarily new filings
19 or pleadings in order to permit expeditious review and resolution.

20 (d) The Defendant City will revise its previously published list and policy listing places for
21 which an employee can complain regarding harassment, retaliation and whistleblowing. The current
22 policy permits complaints through the chain of command or to the current "harassment" deputy or
23 sergeant. Defendant City will add to the list for employees to complaint(s) relating to protected
24 classifications, whistleblowing or similar claims, and to and seek resolution of such claims permitting
25 the employee(s) to present complaints outside the chain of command the following, (1) to any
26 supervisor, (2) the Assistant Sheriff, (3) The Undersheriff and or (4) the Sheriff for the City and County
27 of San Francisco.

28 (e) The Defendant City will prepare and publish a new list and statement permitting
complaints outside the chain of command for an employee to be distributed to each Sheriff's
Department employee, specifically (1) his revised policy list will be distributed along with the Sheriff's
Department policies on discrimination and harassment based on all protected classifications, (2)

1 policies on discrimination and harassment complaints outside the Sheriff's department, including to the
2 Department of Human Resources for the City and County of San Francisco, the Department of Fair
3 Employment and Housing of the State of California, and the United States Equal Opportunity
4 Commission, and (3) the Whistleblower policies – to all supervisors in their twice yearly training and
5 will also
6 distribute that same packet to all employees during advanced officer training, which is yearly training,
7 for a period of at least three years in order to educate its employees in that particular manner. In
8 addition each of these stated policies will be posted at each facility in a conspicuous location and
9 manner for all employees to read.

10 (f) The Defendant City will also work with the plaintiffs to determine which pieces of paper
11 exist in their personnel files related to the events, the retaliatory events that are at issue, remaining at
12 issue, and to remove those from the personnel files, to place them under seal and to agree not
13 to use them in the future for any decisions related to promotion, transfer or discipline.

14 (f) Plaintiffs Versher, Spires-Morgan and Janssen will review their personal file with Faye
15 Horn of the Sheriff's Department. If the deputy and the Sheriff's Department can not agree on the
16 document(s) which should be removed pursuant to this order, this matter will be submitted to this court.
17 Magistrate Judge Maria Elena James, or in her absence, any other judicial officer, will retain jurisdiction
18 to make any further orders and determination of the documents to be removed and not considered for
19 any future promotion, transfer or discipline if the parties can't agree. The parties will return to the court
20 for further order on this issue. A ruling by the court on what, if any, document(s) shall be removed,
21 would be subject to no further appeal upon ruling by Judge James or other judicial officer and shall be
22 presented to the court without further notice, and without necessarily new filings or pleadings in order to
23 permit expeditious review and resolution.

24 (g) By this stipulation, Plaintiffs' Versher, Morgan-Spires and Janssen each settle and
25 relinquish all claims for retaliation, as set forth in their claims under (5) Retaliation for Protected
26 Activity under Title VII (Federal Claim); (6) Retaliation for Protected Activity under the Fair
27 Employment and Housing Act (California Claim); (7) Failure To Prevent Violation under the Fair
28 Employment and Housing Act (California Claim); (8) California Labor Code § 1102.5 et seq; (9) Peace
Officer Bill of Rights (Govt § 3309.5).

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1 NOW THEREFORE IT IS ORDERED, ADJUDGED AND DECREED THAT JUDGMENT
2 SHALL ENTER AS FOLLOWS:

3 (a) As to the Claims asserted by way of the revised Third Amended Complaint, by all plaintiffs for
4 the claims (1) Gender Discrimination under Title VII (Federal Claim); (2) Gender
5 Discrimination, under the Fair Employment and Housing Act (California Claim); (3) Gender
6 Employment Restriction under Title VII (Federal Claim); (4) Gender Employment Restriction
7 under the Fair Employment and Housing Act (California Claim); and upon the Defendant City's
8 defense of Boni Fide Occupational Qualification, judgment shall enter in favor of the Defendant
9 City and against the plaintiffs.

10 (b) As to the Claims asserted by way of the revised Third Amended Complaint by Plaintiffs'
11 Versher, Morgan-Spires and Janssen for claims for retaliation, as set forth in their claims under
12 (5) Retaliation for Protected Activity under Title VII (Federal Claim); (6) Retaliation for
13 Protected Activity under the Fair Employment and Housing Act (California Claim); (7) Failure
14 To Prevent Violation under the Fair Employment and Housing Act (California Claim); (8)
15 California Labor Code § 1102.5 et seq; (9) Peace Officer Bill of Rights (Govt § 3309.5),
16 judgment shall enter in favor of Plaintiff Versher, Morgan-Spires and Janssen and against the
17 Defendant City.

18 Date:

19 SUSAN ILLSTON
United States District Court Judge

20 APPROVED AS CONFORMING
21 TO THE ORDERS OF THE COURT
22 AND THE STIPULATION OF THE PARTIES:

23 _____
24 Margaret Baumgartner
25 Deputy City Attorney
26 City and County of San Francisco
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